



FEDERAL ELECTION COMMISSION

Washington, D.C. 20463

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2013 JAN 18 PM 5:24

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SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Anthony Herman
General Counsel

BY: Daniel A. Petalás
Associate General Counsel for Enforcement *DPH*

Peter G. Blumberg
Assistant General Counsel *PGB*

Ana J. Peña-Wallace
Attorney *APW*

SUBJECT: MUR 6498 (Lynch for Congress)

RE: Withdrawal and Recirculation of Discovery Documents

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SECRETARIAT

In response to the discussion of this Matter at the Executive Session of November 28, 2012, we are withdrawing the previously-circulated discovery documents dated September 20, 2012, and resubmitting the attached revised subpoena in order to modify the questions. This subpoena is being circulated on a 48-hour no-objection basis. In addition, the submission no longer includes a subpoena for Jessica Dornblaser, the Lynch for Congress campaign manager, because we interviewed her in the interim period and no longer require her sworn testimony.

The Commission previously authorized an investigation in this matter, including the use of compulsory process. See Certification (Nov. 1, 2011). The investigation concerns allegations that Lynch for Congress (the "Committee") and candidate Edward Lynch, both in his capacity as treasurer and as a candidate, knowingly and willfully used Committee funds for personal use and that the Respondents filed inaccurate disclosure reports with the Commission. After subpoenaing Committee bank records from SunTrust and reconciling them with the Committee's disclosure reports, we have confirmed substantial reporting violations, including cash-on-hand balances that were overstated in amounts between \$30,000 and \$83,000, receipts that were inflated by over \$70,000, and that only half of the \$100,000 in loans disclosed in the Committee's FEC reports were actually deposited into the campaign accounts. The bank records

have also enabled us to identify significantly more potential personal use expenses (approximately \$76,000 total, of which \$57,000 were unreported) than the approximately \$10,000 (including gasoline and meal expenses) previously identified in the First General Counsel's Report. These expenses include the payment of \$21,766.77 in IRS tax levies. Additionally, in interviews with Committee staff members we have learned that Lynch's misuse and misreporting of campaign funds may have been deliberate.

The attached questions and document requests seek additional information concerning the Committee's expenses to help us determine whether certain expenses that on the surface appear to be personal use expenses were, in fact, legitimate campaign expenses or whether they were Lynch's personal expenses. In addition, we seek to obtain witness testimony to learn more details about Lynch's personal use of campaign funds and the Committee's misreporting of campaign activity and whether the violations were knowing and willful.

We spoke with Lynch at the outset of the investigation, but despite his repeated assurances that he would provide us with Committee records, he provided us only with contact information for two campaign staff members, Jessica and Tim Dornblaser, then ceased communicating. See OGC Memorandum (Mar. 8, 2012). Because we have to date been unable to obtain details from Lynch through informal means, the use of compulsory process will be necessary to secure his testimony. Some of the personal use expenses appear to be self-evident (e.g., the use of Committee funds to pay personal tax levies), but it would be prudent to obtain whatever explanations he may offer for those disbursements. Additionally, because Lynch also served as the treasurer for the Committee, he is uniquely situated to address questions about Committee disclosure reports.

Attachment:

1. Deposition Subpoena and Document Request for Edward J. Lynch, Sr.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

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MUR 6498

SUBPOENA

TO: Edward J. Lynch, Sr.

West Palm Beach, FL 33411

Pursuant to 2 U.S.C. § 437d(a)(3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby subpoenas you to appear for deposition with regard to MUR 6498. Notice is hereby given that the deposition is to be taken on February 19, 2013, in Room 623 at of the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, beginning at 10:00 a.m. and continuing each day thereafter as necessary.

Further, pursuant to 2 U.S.C. § 437d(a)(1),(3), you are hereby subpoenaed to submit written answers and produce the documents listed on the attachment to this subpoena. Legible copies which, where applicable, show both sides of the documents, may be substituted for originals. The documents must be submitted to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, by February 11, 2013.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set her hand in Washington, D.C., on this ____ day of January 2013.

On behalf of the Commission,

Ellen L. Weintraub
Chair

ATTEST:

Shawn Woodhead Werth
Secretary and Clerk of the Commission

Attachments
Instructions
Questions and Document Requests

INSTRUCTIONS

In answering these written questions and requests for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each question propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the written response.

If you cannot answer the following questions in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following questions and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, these discovery requests shall refer to the time period from January 1, 2008 to the present time.

The following questions and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean Edward J. Lynch, Sr. to whom these discovery requests are addressed.

"Lynch for Congress" or any variation thereof, shall mean Lynch for Congress, Inc., Edward J. Lynch's campaign organization in connection with his elections for the United States House of Representatives, including employees and volunteers.

"Person" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization, group or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term "document" includes, but is not limited to, books, letters, electronic mail, text messages, contracts, notes, diaries, log books, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence; surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. If a document request calls for a document that is maintained on or in a magnetic, optical, or electronic medium (for example, but not limited to, computer tape, diskette, or CD-ROM), provide both "hard" (*i.e.*, paper) and "soft" (*i.e.*, in the magnetic or electronic medium) copies, including drafts, and identify the name (*e.g.*, Microsoft Word for Windows, WordPerfect, *etc.*) and version numbers of the software by which the document(s) will be most easily retrieved.

"Identify" with respect to a document shall mean state the nature or type of document (*e.g.*, letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, and the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residential addresses and the corresponding telephone numbers, e-mail addresses, the present occupation or position of such person, the occupation or position of such person during the relevant time period, and the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for production of documents any documents and materials that may otherwise be construed to be out of their scope.

"Communication" shall be deemed to include both singular and plural, and to include written, oral, telephonic and electronic communications.

QUESTIONS AND DOCUMENT REQUESTS

1. Provide the following information and documents relating to Lynch for Congress's use of campaign office space:
 - a. Identify (i) the physical and mailing addresses for any and all campaign office or offices, (ii) the leasing agent or landlord for each such office, (iii) the dates that Lynch for Congress occupied each such office, and (iv) the amount of rent paid or owed for each such office.
 - b. Provide copies of any and all lease or rental agreements, invoices, payments, or receipts relating to Lynch for Congress's use of each office identified in response to item 1.a, above.
 - c. Identify by name and account numbers all vendors that Lynch for Congress used for telephone, internet, fax and cellular phone service, and all utilities, including but not limited to Florida Power and Light Co. and Verizon Wireless.
 - d. Provide copies of any and all account statements, invoices, payments, and receipts for each provider identified in response to item 1.c, above.
2. Identify the date, location, and nature of any campaign-related event for which Lynch for Congress made disbursements relating to transportation, entertainment, food, lodging, event services, supplies, and location costs.
3. Provide copies of any calendar entries, appointment records, or other documents that identify the date, nature, and/or location of each campaign-related event identified in response to item 2, above.